

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 119 - SB 43**

March 30, 2009

**SUMMARY OF BILL:** Creates a new Class C felony offense of aggravated vehicular assault if a defendant has two or more prior convictions of driving under the influence (DUI), vehicular assault or any combination of the two; has one or more convictions for vehicular homicide or aggravated vehicular homicide; or at the time of the offense, had 0.20 percent or more by weight of alcohol in the defendant's blood and the defendant has a prior conviction for DUI or vehicular assault. Defines "prior conviction."

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$38,500/One-Time  
\$203,400/Incarceration\***

Assumptions:

- The creation of this new offense will result in longer sentence since it is assumed that persons would currently be charged with vehicular assault punishable as a Class D felony.
- The Department of Safety (DOS) would need to make 11 computer changes at a one-time cost of \$38,500 (\$3,500 x 11) to the existing program to capture these convictions as aggravated vehicular assault rather than vehicular assault.
- According to the Department of Correction (DOC) there has been an average of 37 admissions for vehicular assault in each of the past 10 years. DOC estimates 25 percent (9) of the vehicular assault admissions had prior alcohol-related convictions.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in one additional offender. According to the Department, 21 percent of offenders will re-offend within one year of their release. A recidivism discount of 21 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (10

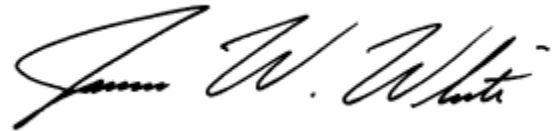
offenders x 21% recidivism discount = 2 offenders). The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on eight (10 - 2) offenders.

- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to DOC, the average post-conviction time served for a Class D felony is 2.43 years and 3.59 years for a Class C felony. The cost per offender at 2.43 years is \$52,995.96 (\$59.80 x 886.22 days). The cost per offender at 3.59 years is \$78,426.50 (\$59.80 x 1,311.48 days). The additional operating cost for increasing the average sentence length by 1.16 years is \$25,430.54 (\$78,426.50 - \$52,995.96). The total additional operating cost for eight offenders is \$203,444.32 (\$25,430.54 x 8).
- Any impact on state trial courts can be accommodated within existing judicial resources.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" and last name "White" clearly legible.

James W. White, Executive Director

/lsc